

Porter, Gene (USAMOW)

From: Porter, Gene (USAMOW)
Sent: Thursday, November 02, 2017 4:40 PM
To: Larson, Tom (USAMOW); Ketchmark, David (USAMOW); Mahoney, Kate (USAMOW)
Cc: Rodriguez, Christy (USAMOW); Wright, Sherri (USAMOW); Miles, Megan (USAMOW); Costantin, Carrie (USAMOE); Birmingham, Charles (USAMOE); Sison, Gilbert (USAMOE); Bateman, Kyle (USAMOE)
Subject: FW: FORMAL NOTICE: Office-wide Recusal of the Eastern District of Missouri (REC-18-413)

Please see the notice below for a new recusal case assigned to WDMO.

WDMO will provide a supervisory chain of command so the three EDMO AUSAs listed below (Charles Birmingham, Gil Sison, and Kyle Bateman – who are excluded from the recusal that otherwise affects all other lawyers in the EDMO USAO) can continue to be the line prosecutors working this case. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Per the terms of the recusal notice, all three of the EDMO AUSAs need to be appointed as Special Attorneys in order to appear on behalf of the government in the Eastern District of Missouri. See USAM 3-2.300 and USAP 3-2.170.001(6)(C)(2)(b).

WDMO AUSA Kate Mahoney, the Chief of the Fraud and Public Corruption Unit in WDMO, will be the first line supervisor of the three EDMO line attorneys. Accordingly, she too needs to be appointed as a Special Attorney in the same manner as the three EDMO AUSAs.

Rosie – would you please contact Nicole West, EOUSA Personnel Staff, Operations Division, at (202) 252-5325, to obtain the appointments for all four AUSAs – WDMO AUSA Kate Mahoney as well as the three EDMO AUSAs.

[REDACTED]

[REDACTED]

Will keep Tom informed on all significant developments as they arise in the recusal case.

Let me know if you have any questions.

Gene

Gene Porter | Criminal Division Chief | United States Attorney's Office | Western District of Missouri | 400 East 9th St, Suite 5510, Kansas City, MO 64106 | ☎: (816) 426-3122 | 📠: (816) 426-4210 | ✉: Gene.Porter@usdoj.gov

Porter, Gene (USAMOW)

From: Pena, Jaime (USAEO)
Sent: Thursday, November 02, 2017 12:44 PM
To: Jensen, Jeff (USAMOE); Costantin, Carrie (USAMOE); Larson, Tom (USAMOW); Porter, Gene (USAMOW); Becker, Tiffany (USAMOE); Walsh, Cari (USAMOW); Livingston, Gary (USAMOE); Rodriguez, Christy (USAMOW)
Cc: Schools, Scott (ODAG) (JMD); Wilkinson, Monty (USAEO); Bell, Suzanne L. (USAEO); Macklin, Jay (USAEO); Shea, Carol (USAEO)
Subject: FORMAL NOTICE: Office-wide Recusal of the Eastern District of Missouri (REC-18-413)

MEMORANDUM FOR:

Jeffrey B. Jensen
United States Attorney
Eastern District of Missouri

Carrie Costantin
First Assistant United States Attorney
Eastern District of Missouri

Thomas Larson
Acting United States Attorney
Western District of Missouri

Gene Porter
Criminal Chief
Western District of Missouri

THROUGH: Scott Schools
Associate Deputy Attorney General
Office of the Deputy Attorney General

Jay Macklin
General Counsel
Executive Office for United States Attorneys

FROM: Jaime Pena
Assistant United States Attorney
Executive Office for United States Attorneys

RE: Office-Wide Recusal of the Eastern District of Missouri from the investigation and prosecution involving *United States v. Custom Ag. Commodities, et al.* and related matters
(GCO File No. REC-18-413)

THIS IS FORMAL NOTICE that Scott Schools, Associate Deputy Attorney General (ADAG) has approved the recusal of the entire United States Attorney's Office for the Eastern District of Missouri from the case, including the investigation and prosecution, of *United States v. Custom Ag. Commodities, et al.* and related matters. The ADAG authorized this recusal in accordance with United States Attorneys' Manual (USAM) 3-2.170 and United States Attorneys' Procedures (USAP) 3-2.170.001 based upon existing conflicts of interest or the appearance of conflicts of interest pertaining to the matter.

ADAG Schools has assigned this matter to the Western District of Missouri and, pursuant to 28 U.S.C. § 515(a), has directed and authorized Acting United States Attorney Thomas Larson or his successor to conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before magistrate judges, which the United States Attorney for the Eastern District of Missouri is authorized by law to conduct regarding this matter, and related matters. *See* USAP 3-2.170.001(6)(C)(2)(b) The ADAG has authorized the following Assistant United States Attorneys and personnel from the Eastern District of Missouri to continue working on this matter under the direction of the Western District of Missouri:

AUSA Charles Birmingham
 AUSA Gil Sison
 Forfeiture AUSA Kyle Bateman
 IT Specialist-Litigation Beau Toth
 Legal Assistant Patricia Rockers
 Legal Assistant Julie Hurst

Each office should communicate directly with the other concerning transfer of information related to this matter in accordance with the procedures outlined in USAP 3-2.170.001(6)(C)(2)(b)(3). The point of contact for the Western District of Missouri is Criminal Division Chief Gene Porter, who can be reached at (816) 426-3122, and the point of contact for the Eastern District of Missouri is First Assistant United States Attorney Carrie Costantin, who can be reached at (314) 539-2200.

All Assistant United States Attorneys subsequently assigned to this matter must be appointed as Special Attorneys in order to appear on behalf of the government in the Eastern District of Missouri. *See* USAM 3-2.300 and USAP 3-2.170.001(6)(C)(2)(b). Please contact Nicole West, EOUSA Personnel Staff, Operations Division, at (202) 252-5325, to obtain the appointment.

In accordance with USAP 3-2.170.001(6)(C)(2)(b)(3), any Special Attorney assigned the matter or case should sign any pleadings or documents using the signature block of the Western District of Missouri, with the addition of the Attorney General's name preceding that of the United States Attorney.

In the event that the Western District of Missouri wants to use AUSAs from the Eastern District of Missouri to assist it in this matter(s), it must submit a request to General Counsel's Office, EOUSA, that includes (1) a detailed justification of the need for the use of an AUSA, and (2) a detailed statement of the role the AUSA would play. ADAG Schools retains the authority to approve/disapprove any such request.



U.S. Department of Justice

Executive Office for United States Attorneys

Human Resources Staff

*Suite 8017, Bicentennial Building
600 E Street, NW
Washington, DC 20530*

*(202) 252-5300
FAX (202) 252-5301*

November 14, 2017

Ms. Kathleen D. Mahoney
Assistant United States Attorney
Western District of Missouri
Charles E. Whittaker Courthouse
400 East 9th Street
Kansas City, Missouri 64106

Dear Ms. Mahoney:

You are hereby appointed as a Special Attorney to the United States Attorney General pursuant to 28 U.S.C. § 515. Subject to the terms and conditions set forth below, you are authorized to file informations and to conduct in the Eastern District of Missouri any kind of legal proceedings, civil or criminal, including Grand Jury proceedings and proceedings before United States Magistrates which United States Attorneys are authorized to conduct

This appointment is made subject to the following terms and conditions, with which we ask that you express your concurrence by signing this letter and returning it to me in the enclosed envelope:

1. This appointment is effective November 14, 2017, not to exceed November 13, 2019, unless extended;
2. With regard to all matters handled by you as a Special Attorney, you will report to and act under the direction of the United States Attorney General or his delegee, the United States Attorney for the Western District of Missouri;
3. During and after the term of your appointment, you will be subject to all laws, regulations and policies applicable to employees. These include, but are not limited to, the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635 et seq., Federal conflict of interest statutes 18 U.S.C. §§ 207, 208, and 209; laws restricting the disclosure of certain confidential governmental information, 18 U.S.C. § 1905 and the Freedom of Information and Privacy Acts, 5 U.S.C. § 552 and § 522a; and political activity restrictions, 5 U.S.C. § 7321 et seq.;

4. You will serve without compensation other than that which you now receive as an employee of the Department of Justice; and
5. Your appointment may be terminated at any time without cause or notice.

Please execute the enclosed Appointment Affidavit which contains the oath of office and return it to Nicole West, SAUSA Program Assistant, Operations Division within fourteen (14) days. This appointment is effective upon the execution of the required oath of office.

You must file a copy of this letter with the Clerk of the District Court to evidence this appointment.

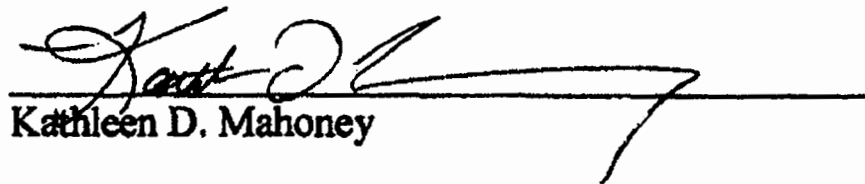
Sincerely,



Valarie D. Mulcahy
Assistant Director
Human Resources Staff
Operations Division

Enclosure

The foregoing terms and conditions
are hereby agreed to and accepted:


Kathleen D. Mahoney

APPOINTMENT AFFIDAVITS

Special Attorney

(Position to which Appointed)

11/14/2017

(Date Appointed)

Department of Justice

(Department or Agency)

U. S. Attorney's Office

(Bureau or Division)

Eastern District of Missouri

(Place of Employment)

I, Kathleen D. Mahoney, do solemnly swear (or affirm) that--

A. OATH OF OFFICE

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

C. AFFIDAVIT AS TO THE PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.


(Signature of Appointee)

Subscribed and sworn (or affirmed) before me this 14 day of November, 2017

at Kansas City

Missouri

(State)

JEANNE MORGAN (City)
Notary Public - Notary Seal
State of Missouri
Commissioned for Clay County
My Commission Expires: June 11, 2018
Commission Number: 14982535


(Signature of Officer)

Commission expires June 11, 2018

(If by a Notary Public, the date of his/her Commission should be shown)

Acting United States Attorney
(Title)

Note - If the appointee objects to the form of the oath on religious grounds, certain modifications may be permitted pursuant to the Religious Freedom Restoration Act. Please contact your agency's legal counsel for advice.